

PTO/SB/30 (09-04)

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**Request
for
Continued Examination (RCE)
Transmittal**Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/772,046
Filing Date	01/04/2004
First Named Inventor	Thomas W. Schrimsher, Sr.
Art Unit	3636
Examiner Name	Joseph F. Edell
Attorney Docket Number	228-002.001 Shrock

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

b. ☒ Enclosed

i. ☒ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/ Declaration(s)

iv. ☐ Other _____

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to
a. ☐ Deposit Account No. _____ I have enclosed a duplicate copy of this sheet.

i. ☐ RCE fee required under 37 CFR 1.17(e) | 04/21/2005 AWONDAF1 00000025 10772046

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) | 01 FC:2801 395.00 OP

iii. ☐ Other _____

b. ☒ Check in the amount of \$ 395.00 enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	18 Apr. 105
Name (Print/Type)	James D. Hall	Registration No.	24,893

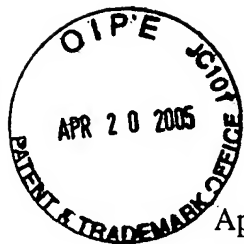
CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		Date	18 Apr. 105
Name (Print/Type)	James D. Hall		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Thomas W. Schrimsher, Sr.
Application No.: 10/772,046
Filed: 02/04/2004
Title: SEATING FOR AUTOMOTIVE VEHICLES
Group/Art Unit: 3636
Examiner: Joseph F. Edell
Attorney Docket No.: 228-002.001 Shrock

Mail Stop: RCE
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This is a continued examination transmittal in response to the office action of January 25, 2005. Please amend the claims as indicated in the accompanying Claim Amendment sheet.

In his office action, the examiner continues to reject claims 1, 4 – 6 and 12 – 14 under 35 U.S.C. Sec. 102(b) as being anticipated by Dawson. The examiner persists in utilizing Dawson as an anticipatory reference even though the mechanical operation of Dawson with its wall paralleling movement for the seat between its open and closed positions is opposite that of the applicant's seat movement which is toward and away from the supporting wall. Claim 1 as previously presented described the seat frame and back frame as being moveable toward and away from the supporting wall between a

seating position and a substantially flat horizontal auxiliary position. Dawson is not moveable in a substantially flat horizontal auxiliary position.

Claim 1 as again amended in the accompanying Claim Amendments is now further described as having both a seat frame and a back frame moveable relative to the main supporting member. This does not occur in Dawson since there is no movement of the seat frame relative to the main supporting member. Additionally, claim 1 describes the substantially flat horizontal auxiliary position of the seat frame and back frame as being in substantially the same plane. Accordingly, claim 1 as currently amended is neither anticipated nor rendered obvious by Dawson. Claims 4 and 5 depend from claim 1, thus the arguments advance as to the allowability of claim 1 apply equally to claims 4 and 5. In claim 6, the actuating link is described as a rigid member pivotally connected to the fixed support and leg. In Dawson, links 21 and 85 are the only two rigid links with link 85 extending between the leg and link 21 which is not a fixed support. As such, claim 6 is not anticipated nor rendered obvious by Dawson.

Claim 12 has been amended to indicate more specifically that in the substantially flat horizontal auxiliary position of the back frame and seat frame, the two frame parts are flush. This does not exist in Dawson. Accordingly, claim 12 is not anticipated nor rendered obvious by Dawson.

In claim 13, the actuating link again is described as a rigid member pivotally connected between the support means and the leg. As argued with respect to claim 6, this structure does not exist in Dawson. Accordingly, claim 13 and its depending claim 14 are neither anticipated nor rendered obvious by Dawson.

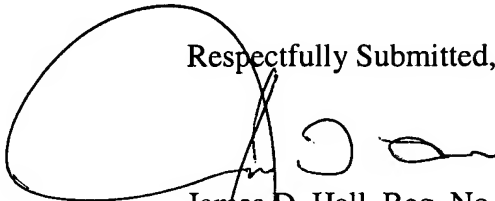
Claims 2, 3, 7 – 11 and 15 – 17 stand rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over Dawson in view of Carte. In his previous response, the applicant advanced an argument as to why the teachings of Carte cannot be combined into the Dawson form of seat frame. The examiner, on page 4 of his office action, does not really explain how such a substitution could be accomplished other than simply summarily saying that the seating of Dawson could be modified as such that the seat and back frames are each pivotally and slidably mounted on the main supporting member by linkage such as disclosed in Carte. In Carte, the frame is pivoted to the floor for an important reason. Once the seat and back frame are in their horizontal flush orientation, the entire frame system must be shifted outwardly relative to the adjacent wall to allow the flush seat and back frame to be pivoted into its stored position. Additionally, side members 17 in Carte are required to support the seat and back frame members in their seating position. Therefore, in order to incorporate the rather complicated frame construction of Carte and its teachings into Dawson, base frame 60 in Dawson would have to be entirely modified and somehow reconstructed to accommodate members 17 which are pivoted from the floor well below the seat so as to incorporate the pivoted and raised support 21 and its linkage 85. Thus, one must eliminate the floor anchorage in Carte in order to provide any accommodation in Dawson. In summary, any incorporation of the Carte teachings into Dawson would not be obvious and certainly would not be within the ordinary skill of the art.

Accordingly, it is submitted that claims 2, 3, 7 – 11 and 15 – 17 are not obvious over Dawson in view of Carte. Nor would claims 1, 4 – 6 and 12 – 14 be obvious over Dawson in view of Carte for the same reasons.

SUMMARY

Accordingly, it is submitted that claims 1 – 17 as presently amended are allowable over the Dawson and Carte references.

Respectfully Submitted,

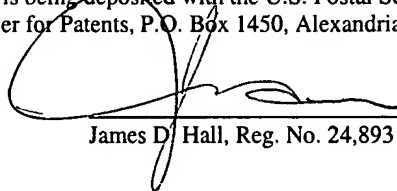


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18 April 05



James D. Hall, Reg. No. 24,893